

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S. Army Corps of Engineers

TNW and RPW

SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): 4 May 2012.

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Seattle District, Redmond Public Works, NWS-2009-242.
Name of water being evaluated on this JD form: Bear Creek

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: Washington County: King City: Redmond

Center coordinates of site (lat/long in degree decimal format): Lat: 47.66803 N, Long: -122.1261 W

Universal Transverse Mercator: _____

Name of nearest waterbody: Bear Creek.

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Sammamish River.

Name of watershed or Hydrologic Unit Code (HUC): 17110012.

Check if map/diagram of review area and/or potential jurisdictional areas is/are available upon request.

Check if other sites (e.g., offsite mitigation sites, disposal sites, etc.) are associated with this action and are recorded on a different JD form. List other JDs: _____

D. REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):

Office (Desk) Determination. Date: 4 May 2012.

Field Determination. Date(s): 26 August 2010.

SECTION II: SUMMARY OF FINDINGS

A. RHA SECTION 10 DETERMINATION OF JURISDICTION.

There **Are** "navigable waters of the U.S." within Rivers and Harbors Act (RHA) jurisdiction (as defined by 33 CFR part 329) in the review area. [Required]

Waters subject to the ebb and flow of the tide.

Waters are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.

Explain: Sammamish River OHW extends into mouth of Bear Creek; Sammamish River designated as a navigable waterway.

B. CWA SECTION 404 DETERMINATION OF JURISDICTION.

There **Are** "waters of the U.S." within Clean Water Act (CWA) jurisdiction (as defined by 33 CFR part 328) in the review area. [Required]

1. Waters of the U.S.

a. Indicate presence of waters of U.S. in review area (check all that apply):¹

TNWs, including territorial seas

Wetlands adjacent to TNWs

Relatively permanent waters² (RPWs) that flow directly or indirectly into TNWs

Non-RPWs that flow directly or indirectly into TNWs

Wetlands directly abutting RPWs that flow directly or indirectly into TNWs

Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs

Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs

Impoundments of jurisdictional waters

Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area:

Non-wetland waters: 4300 linear feet 6 width (ft) and/or _____ acres.

Wetlands: 1 acres.

c. Limits (boundaries) of jurisdiction based on: Established by OHWM. and 1987 Delineation Manual.

Elevation of established OHWM (if known): _____.

2. Non-regulated waters/wetlands (check if applicable):³

Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional.

Explain: _____.

¹ Boxes checked below shall be supported by completing the appropriate sections in Section III below.

² For purposes of this form, an RPW is defined as a tributary that is not a TNW and that typically flows year-round or has continuous flow at least "seasonally" (e.g., typically 3 months).

³ Supporting documentation is presented in Section III.F.

SECTION III: CWA ANALYSIS

- A. TNWs AND WETLANDS ADJACENT TO TNWs – NOT APPLICABLE
- B. CHARACTERISTICS OF TRIBUTARY (THAT IS NOT A TNW) AND ITS ADJACENT WETLANDS – NOT APPLICABLE
- C. SIGNIFICANT NEXUS DETERMINATION – NOT APPLICABLE
- D. DETERMINATIONS OF JURISDICTIONAL FINDINGS. THE SUBJECT WATERS/WETLANDS ARE:

2. RPWs that flow directly or indirectly into TNWs.

- Tributaries of TNWs where tributaries typically flow year-round are jurisdictional. Provide rationale indicating that tributary flows perennial: observed Bear Creek flowing during summer drought periods 2010, 2011. Describe flow path to a TNW: Bear Creek, Sammamish River.

Provide estimates for jurisdictional waters in the review area (check all that apply):

- Tributary waters: 4300 linear feet 6 width (ft).
- Other non-wetland waters: _____ acres.
- Identify type(s) of waters: _____.

4. Wetlands directly abutting an RPW that flow directly or indirectly into TNWs.

- Wetlands directly abut RPW and thus are jurisdictional as adjacent wetlands.
- Wetlands directly abutting an RPW where tributaries typically flow year-round. Provide data and rationale indicating that tributary is perennial in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting an RPW: GAP Wetland 1 observed by Corps and delineated by applicant to OHWM.

Provide acreage estimates for jurisdictional wetlands in the review area: .78 acres.

- E. ISOLATED [INTERSTATE OR INTRA-STATE] WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE, INCLUDING ANY SUCH WATERS (CHECK ALL THAT APPLY): NOT APPLICABLE
- F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS: NOT APPLICABLE

SECTION IV: DATA SOURCES.

A. SUPPORTING DATA. Data reviewed for JD (check all that apply):

- Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant: Wetland Delineation Report, Bear Creek Rehabilitation Project, prepared for city of Redmond, prepared by DMJM Harris, November 2005.
- Data sheets prepared/submitted by or on behalf of the applicant/consultant.
 - Office concurs with data sheets/delineation report.
 - Office does not concur with data sheets/delineation report.
- Data sheets prepared by the Corps: _____.
- Corps navigable waters' study: Corps navigable waters' study: The Sammamish River and mouth of Bear Creek are waterbodies on the Section 10 Navigable Waterway List for Seattle District available at www.nws.usace.army.mil.
- U.S. Geological Survey Hydrologic Atlas: _____.
 - USGS NHD data.
 - USGS 8 and 12 digit HUC maps.
- U.S. Geological Survey map(s). Cite scale & quad name: Kirkland and Redmond 7.5'
- USDA Natural Resources Conservation Service Soil Survey. Citation: _____.
- National wetlands inventory map(s). Cite name: _____.
- State/Local wetland inventory map(s): _____
- FEMA/FIRM maps: _____.
- 100-year Floodplain Elevation is: _____ (National Geodectic Vertical Datum of 1929)
- Photographs: Aerial (Name & Date): _____
or Other (Name & Date): _____.
- Previous determination(s). File no. and date of response letter: _____.
- Applicable/supporting case law: _____.
- Applicable/supporting scientific literature: _____.
- Other information (please specify): _____.

- B. ADDITIONAL COMMENTS TO SUPPORT JD: Wetland A (0.2 acre) is adjacent to the Sammamish River, a TNW. Corp project manager visited project site in August 2010 and visually confirmed wetland boundaries were approximately as delineated by applicant.